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8 UNITED STATES BANKRUPTCY COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 In re:) Case No. 04-53874-ASW
12)
EXCEL INNOVATION, INC.,) CHAPTER 11
13)
14 Debtor.) Date: December 7, 2010
Time: 1:15 p.m.
Judge: Hon. Arthur S. Weissbrodt
280 S. First Street, Room 3020
San Jose, California
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17 **FIRST INTERIM APPLICATION FOR COMPENSATION AND**
18 **REIMBURSEMENT OF EXPENSES BY ATTORNEY FOR DEBTOR**
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1 The Application of Campeau Goodsell Smith (Applicant) respectfully represents:

2 Applicant is a professional corporation, each of whose attorneys is duly licensed and
3 admitted to practice before the above-entitled court, and serve as attorneys for the debtor herein,
4 having been so retained upon order of this court dated March 24, 2005. As such attorneys,
5 Applicant has performed various legal services, particulars of which are hereinafter set forth:

6 CASE ADMINISTRATION

7 For some years prior to the initiation of this Chapter 11 case, Excel Innovations, Inc.,
8 had been in various and multiple forms of litigation with Solidus Networks Inc., and its
9 predecessor entity Indivos Corporation, resulting from a sale/transfer transaction involving certain
10 patents and the resultant claims by each entity against the other(s). In some instances, Excel had
11 prevailed and in other instances, Solidus/Indivos had prevailed. However, by early 2004, two
12 primary actions persisted: the District Court Patent Litigation (described below) and the AAA
13 Arbitration (also described below).

14 In/about June 2004, Debtor filed a Chapter 11 petition in response to adverse rulings in
15 the District Court Patent Litigation and in the AAA Arbitration. Counsel Lanahan & Reilly (LR)
16 originally filed the Chapter 11 petition but was disqualified in/about October 2004, and Debtor
17 engaged the law offices of Charles Logan (Logan) instead. In early 2005, Logan and Debtor
18 agreed to part ways. In March 2005, Debtor engaged Applicant to replace Logan as its counsel.

19 Communications. From the outset of its engagement, Applicant has routinely
20 conferred with Debtor concerning its obligations pursuant to the Bankruptcy Rules and U.S.
21 Trustee Guidelines, and has assisted Debtor in preparing required reports. Applicant has
22 communicated on various subjects with representatives of the U.S. Trustee's office and the
23 Bankruptcy Clerk's office with respect to issues arising in this case. Applicant has regularly
conferred with the several counsel taking part in this case representing individual creditors.

1 Debtor Relief from Stay. At the time when Debtor engaged Applicant, Logan had filed
2 a motion for relief from stay to permit Debtor to pursue an issue-related appeal in the District
3 Court Patent Litigation. Logan and Applicant appeared jointly on behalf of Debtor at the hearing
4 on the motion. The motion was granted by the Court, but significant additional briefing ensued
5 regarding the scope of the relief being granted. Special Counsel Knobbe Martin was engaged for
6 the limited purpose of pursuing the single-issue appeal from the District Court.

7 Engagement of Professionals. During the course of this case, Applicant has sought
8 permission to engage two separate special counsel (KMOB and SVLG) and a tax professional.

9 Identification of Assets. Shortly after Applicant became involved in this case, Debtor
10 requested that Applicant depose the responsible parties at escrow-holder U.S. Bank regarding the
11 status and sum of amounts being held on account due to Debtor. Applicant filed an application
12 for a Rule 2004 examination, which was opposed by Indivos/Solidus. Various briefing ensued.
13 Eventually, Indivos/Solidus counsel agreed to represent on the record before this Court that a
14 certain sum existed on the petition date, and that certain additional sums had been paid into the
15 escrow account – and that no monies had been removed – which obviated the need for the Rule
16 2004 examination.

17 Corporate Governance. At Debtor's request, Applicant attended certain corporate
18 meetings to report on Chapter 11 case and litigation issues. In mid-2007, Debtor's shareholders
19 replaced existing management with a new management group; old management disputed the
20 election results but not the ballots cast. Applicant consulted outside counsel for instructions on
21 which management group controlled Debtor after the shareholder election, and confirmed that the
22 new management group had validly been elected. Subsequently, Applicant was called upon by the
23 new management group to force the old group to disgorge the corporate records and funds.

1 Motion to Convert Case. As a result of the uncooperative management change and the
2 lack of corporate financial records, the new management was unable to file monthly operating
3 reports for a period of months. In mid-2008, the U.S. Trustee filed a motion to convert the case
4 for failure to file the required operating reports. Applicant opposed the motion on Debtor's
5 behalf, assisted Debtor in preparing the necessary operating reports, and the motion was denied.
6 In early 2010, another motion to convert the case was brought, which was joined by YOU
7 Technology in an effort to avoid Debtor's continuing claims to the Indivos stock proceeds, and
8 that motion was also denied.

9 In connection with the foregoing, over the past 5½ years, Applicant has expended time
10 at a cost to the estate of \$149,217.00.

11 STOCK PROCEEDS TURNOVER

12 In May 1995, Excel and Ned Hoffman formed the predecessor to Indivos Corporation.
13 Excel capitalized Indivos and received 1,998,000 shares of Indivos Series A stock. In June 2000,
14 Hoffman entered into several agreements with Indivos, including a pledge of Excel's Indivos
15 stock shares to secure Hoffman's obligations under a settlement agreement. Hoffman also placed
16 his shares and Excel's shares in a voting trust agreement for a three year period. During the first
17 two years of the voting trust, Indivos did not assert any default by Hoffman, but in the third year,
18 Hoffman filed more than a dozen lawsuits in his own name and Excel's name seeking to block a
19 merger between Indivos and Solidus.

20 In July 2003, Indivos and Solidus completed their merger. Pursuant to the merger,
21 Indivos ceased to exist and its former shareholders received cash consideration for their shares.
22 Solidus deposited the merger proceeds (in three tranches) attributable to Excel's shares into an
23 escrow, which totalled \$1,178,945.90 as of December 2004. Indivos/Solidus asserted setoff and
a security interest in these funds.

1 Shortly after filing the Chapter 11 case, prior counsel LR filed an adversary proceeding
2 seeking turnover of the escrowed funds held by escrow-holder U.S. Bank (the Stock Proceeds
3 Turnover Litigation). When Logan replaced LR as Chapter 11 counsel, he specifically declined to
4 prosecute the Stock Proceeds Turnover Litigation.

5 After Applicant was engaged, Applicant discussed the turnover litigation with Debtor's
6 then-management and investigated the basis for Debtor's claims and Indivos/Solidus asserted
7 rights against the escrowed funds. Applicant thereafter persuaded Silicon Valley Law Group
8 (SVLG) to act as special counsel to prosecute the Stock Proceeds Turnover Litigation. From
9 March 2005 until March 2007, SVLG attorney Gregory Charles undertook discovery and
10 prosecuted Debtor's claim to the escrowed funds; when attorney Charles joined Applicant in
11 March 2007, Applicant substituted itself for SVLG as record counsel in the turnover litigation.

12 In September 2008, Applicant researched and filed a motion for summary judgment.
13 The hearing on the motion was continued on several occasions while the Court awaited a
14 promised motion to intervene by other former Indivos shareholders purportedly claiming an
15 interest in the escrowed funds. Eventually, in March 2009, opposing counsel represented that the
16 true intervenor would be YOU Technology, credit bid purchaser of Indivos/Solidus assets.
17 Applicant conducted further investigation into YOU's purported assigned rights, and undertook
18 legal research to respond to same, before renewing Debtor's summary judgment motion in April
19 2009; the Court declined Applicant's motion for summary judgment in June 2009. Based
20 on the Court's reasoning, Applicant turned its attention to concluding the District Court Patent
21 Litigation before resuming efforts to resolve the Stock Proceeds Turnover Litigation.

22 In mid-2010, at the suggestion of this Court, Applicant scheduled a mediation session
23 with Bankruptcy Judge Dennis Montali, which resulted in a settlement whereby Debtor will

1 receive approximately \$925,000.00 (with accruing interest). Applicant prepared and filed its
2 motion to approve this compromise, which is set for hearing.

3 In connection with the foregoing, over the past 5½ years, Applicant has expended time
4 at a cost to the estate of \$179,260.00.

5 DISTRICT COURT PATENT LITIGATION

6 In July 2003, Excel filed a complaint in the U. S. District Court for the Northern
7 District of California against Indivos/Solidus alleging breach of a patent licensing agreement and
8 infringement on 15 patents in the field of tokenless biometric computer systems (the District
9 Court Patent Litigation). Indivos/Solidus asserted numerous counterclaims against Excel,
10 Hoffman and Aviv LLC, including claims for declaratory relief with respect the ownership of the
11 subject patents, patent infringement and inducing infringement of the same 15 subject patents,
12 intentional interference with prospective economic advantage, violation of the Lanham Act,
13 business disparagement, and conspiracy to commit the other alleged violations. In response,
14 Excel asserted new counterclaims against Indivos/Solidus for declaratory relief with respect to
15 patent ownership, breach of contract (failure of consideration), breach of contract (frustration of
16 purpose), breach of contract (breach of fiduciary duty) and fraud. Excel and Indivos/Solidus both
17 moved for partial summary judgment as to ownership of the patents.

18 In May 2004, the District Court granted Indivos/Solidus' motion for partial summary
19 judgment finding these parties to be the owners of the patents. The remaining Indivos/Solidus
20 claims, including claims for infringement and damages, remained to be resolved by the District
21 Court at the time that Debtor filed its bankruptcy petition staying the patent litigation.

22 In October 2004, Indivos/Solidus sought relief from stay to allow completion of the
23 District Court Patent Litigation and the AAA Arbitration. The Court conducted hearings in
January 2005 and February 2005, and indicated that it was inclined to grant relief from stay only

1 to permit Debtor to seek Rule 54 certification from the District Court with respect to the
2 summary judgment order on patent ownership, whereupon Indivos/Solidus withdrew its motion.
3 In response, Debtor filed its own motion for relief from stay for that purpose, and the Court
4 entered its order granting relief in June 2005.

5 Concurrently with Applicant's engagement, Debtor engaged special counsel KMOB to
6 prosecute the Rule 54 certification and expected related appeal. KMOB researched and filed its
7 motion before the District Court for Rule 54 certification; Indivos/Solidus opposed that motion,
8 raising various bankruptcy-related issues concerning this Chapter 11 case and the then-pending
9 Aviv Chapter 7 proceeding. KMOB called upon Applicant to respond to the bankruptcy issues.
10 The District Court declined the Rule 54 certification, citing unresolved matters in the pending
11 bankruptcy cases (including a pending Indivos/Solidus appeal of the relief from stay order).

12 Over the next 10 months, KMOB researched and filed a second/third/fourth renewed
13 motion before the District Court for Rule 54 certification, as various developments in the Aviv
14 Chapter 7 case, in this Chapter 11 case, and in various related Indivos/Solidus bankruptcy appeals
15 transpired. In response to each KMOB renewed motion, Indivos/Solidus opposed the motion; in
16 each instance, KMOB called upon Applicant to respond to the bankruptcy issues raised. In each
17 instance, the District Court declined the Rule 54 certification, without prejudice, on new grounds.

18 When it became evident that the District Court was disinclined to grant the requested
19 Rule 54 certification, Applicant recommended a different course of action to Debtor, involving
20 litigation of the merits of the remaining claims, to be followed by an appeal of the final judgment.
21 Debtor's then-existing management rejected this course of action. Additionally, Applicant
22 believed that in the absence of any progress in prosecuting the District Court Patent Litigation,
23 Debtor's Chapter 11 case was at risk of being converted. Debtor's shareholders were persuaded
that the only likely source of significant recovery on their investment would be from successful

1 appeal of the District Court summary judgment ruling on patent ownership. Despite efforts,
2 Debtor had been unable to find any other counsel willing to recommence the District Court Patent
3 Litigation (KMOB was only willing to pursue the Rule 54 certification appeal). Consequently, to
4 induce Applicant to step forward and prosecute the District Court Patent Litigation through any
5 trial and subsequent appeal, certain of Debtor's shareholders (not including Hoffman) agreed to
6 pay \$195,000.00 to defray the costs of prosecuting Debtor's claims, and Debtor's concurrent
7 management change in late 2007, Debtor directed CGS to prosecute the District Court Patent
8 Litigation to conclusion, and the parties stipulated to full relief from stay to recommence that
9 litigation. The order granting relief became effective on December 5, 2007.

10 On December 14, 2007, Solidus consented to entry of an order for bankruptcy relief
11 and Indivos filed a voluntary bankruptcy petition, with both cases being filed in the U. S.
12 Bankruptcy Court for the Central District of California. After incurring \$330,000,000 in secured
13 and unsecured debt, Indivos/Solidus proposed a fire sale of all assets at an ex parte hearing –
14 including the subject patents. Debtor objected to the sale free and clear of its claims, and argued
15 that the purported “secured creditors” auction would result in a credit bid with no proceeds to
16 unsecured creditors (which is what occurred). In March 2008, the Central District Bankruptcy
17 Court entered an order approving the asset sale to YOU Technology, but reserving Debtor
18 Excel's claims to the disputed patents. The Central District Bankruptcy Court also entered an
19 order granting relief from stay allowing Debtor Excel to prosecute the District Court Patent
20 Litigation to judgment.

21 In January 2008, Debtor filed a motion for summary judgment and a motion to dismiss
22 Indivos/Solidus claims in the District Court Patent Litigation. Indivos/Solidus filed opposition.
23 In April 2008, the District Court granted Debtor's motions and dismissed 19 asserted damages
claims, with Indivos/Solidus and YOU Technology taking nothing. The District Court also

1 determined that “[a]ll claims, counterclaims, and counter-counterclaims asserted in this
2 proceeding have been resolved ...” Applicant concluded that based on this ruling, final judgment
3 would enter by operation of F.R.C.P. Rule 58 and F.R.App.P. Rule 4, in September 2008.

4 In September 2008, Applicant filed its appeal of the now-final judgment to the Federal
5 Circuit Court of Appeals in Washington DC. Applicant prepared the appellate record, researched
6 and prepared Debtor’s appellate briefs, and traveled to Washington DC for oral argument. Based
7 on the existing record, the Federal Circuit affirmed the District Court’s summary judgment order,
8 but did not set aside the District Court’s dismissal of the nineteen Indivos/Solidus damages claims
9 (which materially benefitted the Stock Proceeds Turnover Litigation).

10 Applicant had previously argued to this Court that conclusion of the District Court
11 Patent Litigation was not necessary to resolve the Stock Proceeds Turnover Litigation; however,
12 by falsely claiming that Debtor had committed patent infringement, Indivos/Solidus forced Debtor
13 to litigate a case that had no true bearing on the turnover proceedings. Not only did this litigation
14 tactic substantially increase the cost of administration for this Chapter 11 case, but it also delayed
15 progress in this Chapter 11 case by nearly four years.

16 In connection with the foregoing, over the past 5½ years, Applicant has expended time
17 at a **net** cost to the estate of \$288,842.00.

18 REORGANIZATION PLAN(S)

19 From the outset of this Chapter 11 case, Applicant advised Debtor’s principals that a
20 promptly-confirmed reorganization plan was the optimal resolution for debtor and its creditors
21 insofar as it would allow Debtor to orderly liquidate its claims in the Turnover Proceeding and in
22 the District Court Patent Litigation. Applicant instructed Debtor that it would need to raise
23 sufficient new equity capital to both pay its creditors and to fund its pending litigation matters.

1 Debtor's then-existing management proved unable to raise any funds beyond the \$150,000.00
2 retainer paid to special counsel KMOB in March 2005.

3 Indivos/Solidus Plan. On the literal eve of Applicant's engagement, Indivos/Solidus
4 filed a creditors proposed reorganization plan and related disclosure statement offering a one-time
5 lump sum payment in exchange for release of Debtor's claims in the District Court Patent
6 Litigation and possession of the escrow funds proceeds. Unfortunately, the proposed plan and
7 disclosure statement were improperly served on all Debtor's creditors and shareholders – in
8 violation of Rule 3017 – before the disclosure statement was approved by this Court. Applicant
9 immediately brought this error to opposing counsel's attention, but opposing counsel's response
10 was essentially dismissive. The Court ordered the U.S. Trustee to conduct an independent
11 investigation into the consequences of this error, sought briefs from the parties regarding the
12 available remedies, and eventually issued sanctions against Indivos/Solidus counsel.

13 Shortly after the sanctions were paid (several months later), Indivos/Solidus filed a
14 second proposed reorganization plan and disclosure statement. Applicant and others filed various
15 objections to the proposed plan and to the new disclosure statement. Applicant also sought to
16 obtain discovery through a Rule 2004 examination regarding the value of the royalty payments
17 due to Debtor from escrow-holder U.S. Bank. Indivos/Solidus opposed the discovery requests,
18 and the Court sought briefing on the issue. The Court also expressed its concern that no plan
19 would be confirmed so long as the Indivos/Solidus claims remained unliquidated. Eventually,
20 Indivos/Solidus withdrew its second proposed reorganization plan and disclosure statement.

21 Debtor's Plan. As described above, Applicant sought to have Debtor find new funds
22 sufficient to both pay creditors and litigate Debtor's various pending claims, as a basis for funding
23 a Chapter 11 reorganization plan – but Debtor's management was unable or unwilling to do so,

1 despite Applicant's grave and repeated concerns about the likely conversion of the Chapter 11
2 case. Applicant did prepare various outlines, however, for Debtor's investors' consideration.

3 However, once the Court had expressed its concern that no plan could be confirmed so
4 long as the Indivos/Solidus claims remained unliquidated, Applicant's attention turned to finding a
5 means to prosecute the District Court Patent Litigation to conclusion. As set forth above, the
6 District Court Patent Litigation was eventually prosecuted to conclusion by Applicant itself.

7 In connection with the foregoing, over the past 5½ years, Applicant has expended time
8 at a cost to the estate of \$156,359.00.

9 SLAPP LITIGATION

10 In 2006, Indivos/Solidus filed a lawsuit against Debtor seeking an injunction prohibiting
11 Debtor from filing any additional lawsuits – particularly a lawsuit threatening the prior trustees of
12 the voting trust at issue in the Turnover Litigation. Applicant researched and prepared a motion
13 to dismiss the subject lawsuit, and obtained a judgment on the pleadings with respect to that
14 claim. Indivos/Solidus appealed the judgment, but abandoned the appeal subsequently.

15 Debtor filed a counterclaim in the subject action naming as defendants the prior trustees
16 of the voting trust, claiming that these individuals had caused the harm suffered by Debtor in its
17 inability to have recovered the escrowed funds. Applicant conducted various discovery in the
18 matter, then obtained a stay of the proceedings pending the outcome of the Turnover Litigation.

19 In connection with the foregoing, over the past 5½ years, Applicant expended time at a
20 cost to the estate of \$28,540.00.

21 AAA ARBITRATION

22 In June 2003, Indivos instituted an arbitration before the American Arbitration
23 Association against Excel and Hoffman (Excel's then-President) for their alleged breaches of a
June 2000 settlement agreement between Indivos and Hoffman (AAA Arbitration). Hoffman

1 raised several counterclaims against Indivos. In May 2004, the arbitrator ruled that Hoffman was
2 liable to Indivos for certain breaches of his obligations under the settlement agreement, and that
3 Excel was liable as Hoffman's alter ego for certain breaches. The AAA Arbitration was stayed by
4 Debtor's Chapter 11 filing in June 2004.

5 In June 2005, Indivos/Solidus sought to recommence the arbitration, and the arbitrator
6 agreed to do so. When Applicant objected to this action, the arbitrator advised Applicant that he
7 would only proceed with those issues which he deemed not to violate the automatic stay. In
8 light of the arbitrator's pre-existing alter ego ruling, neither Applicant nor Debtor's management
9 were comfortable with the arbitrator's vaguely stated intentions, particularly since the arbitrator
10 had already scheduled his final arbitration session to proceed. Applicant prepared and filed an
11 adversary proceeding complaint seeking declaratory and injunctive relief. Indivos/Solidus
12 opposed the injunctive relief, and its counsel assured the Court that the continued arbitration
13 could pose no harm to Debtor because no further evidence would be submitted. On that basis,
14 the Court denied Debtor's requested injunction. Within days thereafter, the arbitrator advised all
15 remaining parties (not including Debtor) that further evidence would be proffered by Indivos and
16 accepted by the arbitrator. Debtor immediately renewed its application for injunctive relief;
17 opposing counsel was unable to reconcile his actions with his prior Court statements, and the
18 Court issued the requested injunction order.

19 Indivos/Solidus filed an appeal to the Bankruptcy Appellate Panel of the Court's
20 injunction order. Applicant researched, prepared and filed responsive briefs as required by the
21 Bankruptcy Appellate Panel, and argued the appeal. The Panel affirmed this Court's order.

22 Indivos/Solidus filed an appeal of the BAP ruling to the Ninth Circuit Court of
23 Appeals. Applicant researched, prepared and filed responsive briefs as required by the Court, and
argued the appeal. In late 2007, the Ninth Circuit issued a reported decision setting forth a new

1 test for bankruptcy-related injunctive relief for arbitration matters, but recognizing that passage of
2 time during Debtor's Chapter 11 case might justify new consideration.

3 With the change in Debtor's management, Debtor was now prepared to move forward
4 with the District Court Patent Litigation. At the same approximate time, Indivos/Solidus filed
5 their own bankruptcy proceedings and were not interested in recommencing the AAA Arbitration.
6 The subsequent sale of Indivos/Solidus assets to YOU Technology, and the subsequent resolution
7 of the District Court Patent Litigation (and appeal), and the recent mediated settlement of the
8 Stock Proceeds Turnover Litigation, has resolved all claims in the AAA Arbitration.

9 In connection with the foregoing, over the past 5½ years, Applicant has expended time
10 at a cost to the estate of \$117,361.00.

11 CLAIMS ANALYSIS

12 Upon reviewing Debtor's filed Schedules, Applicant became aware that Debtor had a
13 very few actual creditors (primarily former attorneys or insiders) but substantially more
14 equityholders. Beyond an initial familiarization with the filed claims, Applicant did not perceive
15 an immediate need to challenge creditor claims since there was no money to pay those claims until
16 the District Court Patent Litigation and Turnover Litigation were successfully concluded.

17 Indivos/Solidus concluded differently. When former President Ned Hoffman filed his
18 place-holder claim for indemnification, Indivos/Solidus immediately sought to challenge that claim
19 while Debtor merely sought to reserve its rights to objection for a future determination. Thus,
20 Applicant and Debtor were thereafter unwillingly drawn into the substantial briefing and then
21 discovery battle between Indivos/Solidus and Hoffman – which eventually concluded with both
22 parties agreeing to reserve their respective rights in the objection for a future determination.

23 In connection with the foregoing, over the past 5½ years, Applicant has expended time
at a cost to the estate of \$12,530.00.

1 FEE APPLICATION ("FEE")

2 Applicant has spent significant effort in preparing this interim fee application, however,
3 due to billing cutoff dates, only part of the time spent is reflected in the present fee application,
4 consisting of 56.1 hours billed, at a cost to the estate of \$21,300.00.

5 CONCLUSION

6 In the course of representation in these matters from March 2005 through September
7 2010, Applicant has devoted in excess of 2,900 hours of professional services, as indicated on
8 Applicant's Project Billing Statement, which is attached as Exhibit A. The Statement identifies the
9 individuals who have performed specific services and is summarized as follows:

10	Scott L. Goodsell (SLG)	28.90	425.00/hr.
	Scott L. Goodsell (SLG)	1,329.40	400.00/hr.
11	Gregory J. Charles (GJC)	1,285.65	400.00/hr.
	Gregory J. Charles (GJC)	242.75	350.00/hr.
12	Gregory J. Charles (GJC)	10.00	No Charge
	Marc L. Pinckney (MLP)	6.40	330.00/hr.
13	William J. Healy (WJH)	4.40	330.00/hr.
	Kari L. Silva (KLS)	6.60	250.00/hr.
14	Jason Chorley (JC) (paralegal)	4.40	75.00/hr.

15 In view of the time expended and the responsibilities assumed, Applicant respectfully submits that
16 the reasonable value of its services hereinabove set forth is \$953,409.00.

17 Applicant has also expended the sum of \$11,589.27 for court fees, hearing and
18 deposition transcripts, photocopying, postage, telephone and other costs, as follows:

19	Photocopy Charges	\$ 1,860.11
	Computer Research Charges	3,663.59
20	Travel Expense	1,390.16
	Postage Charges	596.17
21	Court Fees	78.00
	Telephone Charges	117.20
22	Delivery Charges	704.68
23	Outside Services	3,179.36

1 Specific expenses are attached hereto as Exhibit B. As a result of Applicant's adopting the
2 Guidelines for Compensation of Professionals issued by the Bankruptcy Court for the Northern
3 District of California, all request for costs reimbursement are based on the Guidelines.

4 Applicant believes that the services so rendered and costs so incurred herein were
5 necessary and that the fees and costs requested constitute reasonable and necessary fees expended
6 on behalf of the estate. In accordance with the Disclosure of Compensation submitted by
7 Applicant in March 2005, Applicant has not previously received any retainer from the debtor in
8 connection with the Chapter 11 case. No part of the monies previously received by Applicant has
9 been shared with any person, and no agreement or understanding exists between Applicant and
10 any other person for the sharing of compensation received or to be received for services rendered
11 in connection with this case, except with the members and associates of Applicant's law firm.

12 Applicant is informed and believes that as a result of the Stock Proceeds Turnover
13 Litigation settlement, Debtor will have approximately \$925,000 in funds of the estate, and that
14 debtor's post-petition debts are current. Special Counsel SVLG will submit a fee application for
15 about \$200,000 at a future point in time. Applicant will likely incur additional fees and costs after
16 the last date of this fee application and before this Chapter 11 case is concluded. Insofar as these
17 Chapter 11 administrative claims may exceed the total cash available to Debtor at this time,
18 Applicant recommends that the Court approve Applicant's fees and costs as requested, and permit
19 payment of costs in full as requested, and allow Debtor to pay 75% of the approved fees plus
20 100% of costs as an interim payment award.

21 WHEREFORE, Applicant prays that this court enter its order (i) approving as interim
22 compensation those Chapter 11 attorneys' fees incurred and costs expended by Applicant from
23 March 2005 through September 2010 in its representation as further set forth above;

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1 (ii) authorizing the debtor to pay to this Applicant for services rendered and costs expended but
2 not yet compensated by the debtor as set forth in this Application (or such interim amount), and
3 (iii) for such further relief as this court deems just and proper.

4 DATED: November 17, 2010

CAMPEAU GOODSSELL SMITH

6 By /s/ Scott L. Goodsell
7 Scott L. Goodsell
8 Attorneys for Debtor
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2 **CERTIFICATION ON FIRST INTERIM APPLICATION FOR COMPENSATION**
3 **AND REIMBURSEMENT OF EXPENSES BY ATTORNEY FOR DEBTOR**

4 I, Scott L. Goodsell, say:

5 1. I am a principal with the law firm of Campeau Goodsell Smith, attorneys of
6 record for the debtor herein. I make this declaration in support of the said law firm's application
7 for interim compensation and reimbursement of expenses as attorneys for the debtor in this
8 Chapter 11 case. If called as a witness, I would competently testify as follows:

9 2. In accordance with the Disclosure of Compensation submitted by Applicant in
10 March 2005, Applicant has not previously received any monies from the debtor for the Chapter
11 11 case. Applicant has received \$17,000.00 awarded as sanctions against Indivos/Solidus and/or
12 their counsel, and Applicant has received \$195,000.00 from certain of Debtor's shareholders
13 which was earmarked specifically for District Court Patent Litigation fees and costs.

14 3. No part of the monies previously received by Applicant has been shared with
15 any person, and no agreement or understanding exists between Applicant and any other person for
16 the sharing of compensation received or to be received for services rendered in connection with
17 this case, except with the members and associates of Applicant's law firm.

18 I declare under penalty of perjury that the foregoing is true and correct and that this
19 declaration was executed at San Jose, California, on November 17, 2010.

20 /s/ Scott L. Goodsell
21 Scott L. Goodsell
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23